

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 Colin Barceloux,

5 Plaintiff

6 v.

7 The Light Group, LLC, et al.

8 Defendants  
9

2:15-cv-02448-JAD-NJK

**Order Dismissing Case for  
Lack of Jurisdiction  
(Amount in Controversy Not Met)**

[ECF Nos. 74, 81]

10 **Introduction**

11 Colin Barceloux claims he was injured at the Bank Nightclub in the Bellagio Hotel & Casino  
12 in Las Vegas, Nevada, when he bumped a glass in the hand of another patron and it shattered in his  
13 face.<sup>1</sup> He sued the Bellagio, added claims against glass manufacturer Libbey Glass, Inc., and has  
14 moved to add claims against the glassware supplier.<sup>2</sup>

15 As I was preparing for the hearing on that latest motion to amend, it occurred to me that this  
16 tort case—which was filed in this court based on diversity jurisdiction, 28 U.S.C. § 1332—may not  
17 satisfy the statutorily required \$75,000 amount in controversy. So I ordered the parties to show cause  
18 why this case should not be dismissed for lack of subject matter jurisdiction.<sup>3</sup> The remaining active  
19 parties have responded.<sup>4</sup> I find that this case does not meet the threshold amount in controversy, and  
20 I dismiss it without prejudice to its refiling in state court.  
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25 <sup>1</sup> ECF No. 1 at 2.

26 <sup>2</sup> ECF No. 81.

27 <sup>3</sup> ECF No. 88 (minute order).

28 <sup>4</sup> ECF Nos. 89, 90.

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Although plaintiff offers the conclusory allegation in his complaint that “The amount in controversy exceeds \$75,000,”<sup>10</sup> other statements in the complaint undermine that conclusion. He alleges that he had incurred medical expenses “in excess of \$18,000” and that his future medical treatment is estimated at “approximately \$25,000,” for a total of just \$43,000.<sup>11</sup> In his response to the order to show cause, plaintiff offers no proof and just baldly claims that his general damages will obviously exceed the additional \$32,000 needed to reach the \$75,000 threshold.<sup>12</sup> Defendant Libbey

<sup>12</sup> ECF No. 89.

1 Glass, Inc. contends that this case falls short of the amount-in-controversy mark and should be  
2 dismissed.<sup>13</sup> Libbey adds that even the \$25,000 in future medical expenses are “dubious” because  
3 the incident occurred more than three years ago and the plaintiff has not sought treatment since.<sup>14</sup>

4 Even if I disregard Libbey’s discussion of the “dubious” nature of plaintiff’s future medical  
5 expenses, I find that plaintiff has not met his burden. He has offered nothing to show that he can  
6 expect to recover “general” damages for pain, suffering, or anything else sufficient to bridge the  
7 \$32,000 span between his claimed past and future damages and the jurisdictional threshold. He  
8 includes no discussion of the pain and suffering that he claims he incurred as a result of any  
9 defendant’s action, and he has not suggested a legal basis for an award of statutory damages or  
10 attorney’s fees.<sup>15</sup>

11 Because it appears to me to a legal certainty that the value of this case is less than \$75,000, I  
12 find that this court lacks jurisdiction to hear it. Accordingly,

13 IT IS THEREFORE ORDERED that **this case is DISMISSED** without prejudice to its  
14 refiling in state court. All pending motions [ECF Nos. 74, 81] are **DENIED** without prejudice. The  
15 Clerk of Court is directed to **CLOSE THIS CASE**.

16 Dated this 22nd day of June, 2017.

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19 Jennifer A. Dorsey  
20 United States District Judge  
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24 <sup>13</sup> ECF No. 90.

25 <sup>14</sup> *Id.* at 2–3.

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27 <sup>15</sup> “Nevada follows the American rule that attorney fees may not be awarded absent a statute, rule,  
28 or contract authorizing such award.” *Thomas v. City of N. Las Vegas*, 127 P.3d 1057, 1063 (Nev.  
2006).